Supreme Court, U.S.
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No. 00-265

IN THE

Supreme Court of the United States

SYLVIA MANNING, EXECUTOR OF THE ESTATE OF HOUGHTON H. WEST,

Petitioner,

v.

AUDREY ALLISON HAYES,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF IN OPPOSITION

MAURICE BRESENHAN, JR.
ZUKOWSKI & BRESENHAN, L.L.P.
Attorneys for Respondent
1177 West Loop South
Suite 1100
Houston, Texas 77027
(713) 965-9969

162293

Counsel Press LLC
(800) 274-3321 • (800) 359-6859

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PARTIES TO THE PROCEEDING

Petitioner

Sylvia Manning, Executor of the Estate of Houghton H. West. Petitioner is an individual and has no corporate affiliations.

Respondent

Audrey Allison Hayes

The caption contains the names of all parties to the final decision below. The issuer of the policy in question, UNUM Life Insurance Company of America, interpled the proceedings of the policy owned by Mr. West into the registry of the District Court and was dismissed before the Final Judgment and appeal to the Fifth Circuit. UNUM is not a party to this Petition.

Respondent Audrey Allison Hayes ("Ms. Hayes") respectfully submits her Brief In Opposition To Petitioner's Writ of Certiorari filed by Petitioner, Sylvia Manning, Executor of the Estate of Houghton H. West ("Executor") that would have this Court review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit filed May 19, 2000.

REASONS FOR DENYING THE WRIT

Congress in ERISA allowed a participant to be the master of his or her beneficiary designation and established a rule of law uniform as to all states governing policies that are part of an employee benefit plan. Mr. West designated Ms. Hayes as the beneficiary of the policy that was part of his benefit plan. Mr. West never changed that designation.

This appeal does not arise out of a claim by a surviving spouse. Neither the Executor nor the beneficiaries of the West Estate are a surviving spouse.

The sole reason for review presented by the petition is the claim that a Texas statute, Texas Family Code § 9.301, preempts ERISA. The Executor argues that Section 9.301 preempts ERISA and parenthetically posits an underlying thesis that the common law and statues of each of the fifty states similarly preempt ERISA if they represent a state's implementation of its divorce law.

Ms. Hayes has been unable to find any decision of this Court or one of the Federal Courts of Appeal that adopt such a point of view.

ERISA, from early in its history statutorily provided that a participant was entitled to designate the beneficiary of that

participant's welfare plan benefits. Additionally Congress in ERISA mandated that plan administrators are entitled to rely upon the plan documents in carrying out their duties to administer and distribute plan benefits.

The decision of the Fifth Circuit was correct and Ms. Hayes respectfully urges this Honorable Court to deny the petition for writ of certiorari.

STATEMENT OF FACTS

Mr. West acquired a UNUM Life Insurance Company of America policy through his employer Amherst Securities Group, Inc. on February 15, 1993.

Mr. West and Ms. Hayes entered into a Separate Property Preservation and Definition Agreement (herein the "Agreement") on December 22, 1994.

The Agreement contained no reference to the Policy.

Mr. West and Ms. Hayes were married on December 27, 1994.

Mr. West designated Ms. Hayes as his beneficiary of the policy on December 15, 1995.

Mr. West never designated the Executor, any beneficiary under his will, or for that matter anyone as an alternative beneficiary under the policy.

Mr. West and Ms. Hayes were divorced on June 26, 1997.

The Final Decree of Divorce (herein the "Decree") made no reference to any insurance policy, or welfare plan benefits.

Mr. West died on July 29, 1997.

Mr. West was during the divorce represented by one of the attorneys of record to this proceeding.

ARGUMENT AND AUTHORITIES

The employee benefit before this Court occurred as a part of and arose out of Mr. West's employment and fell generically within the phrase "employee benefit plan" 29 U.S.C. § 1002(3). Employee benefit plans encompass both welfare benefit plans and pension benefit plans, however, the two types of plans have distinct, individual definitions, "employee welfare benefit plan" 29 U.S.C. § 1002(1) and "employee pension benefit plan" 29 U.S.C. § 1002(2).

Welfare benefit plans by definition generally provide life, health, medical, unemployment and vacation benefits. The definition of welfare benefit plan specifically excludes plans providing pensions one would have at death.

Pension benefit plans by definition provide retirement income or income deferral to the termination of covered employment or beyond.

The enactment of the Retirement Equity Act of 1984 represented a specific Congressional decision to amend rules for pension benefit plans but not for welfare benefit plans. P.L. 96-397, § 103 as relevant to this proceeding.

R.E.A.'s enactment established a comprehensive and preclusive framework of rules for pension benefit plans, however, participants by Congressional decision were given latitude with regard to welfare benefit plans.

A participant, Mr. West, was given the right to designate and to change beneficiaries and alternative beneficiaries even when married.

ERISA's structure as created by Congress was designed to be broadly preclusive [29 U.S.C. § 1144(a)] and to make certain that plan administrators would not have to carry out their duties looking through the lens of an ever changing kaleidoscope of state common law and statutes. 29 U.S.C. § 1104(a)(1)(A).

Family Code Section 9.301 does not merely relate to the decision by Congress to allow a participant to designate their beneficiary and to the ability of plan administrators to discharge their responsibilities relying upon plan documents, it overrides these statutes.

This Court's decisions such as *Boggs v. Boggs* 520 U.S. 833, 117 S. Ct. 1754 (1997), *Pyle Life Insurance Co. v. Dedeaux*, 481 U.S. 41, 107 S. Ct. 1549, 1552 (1987) and in *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 103 S. Ct. 2890 (1993) have analyzed the phrase "relates to" in a common sense fashion to denote connection with or reference to a plan. Further, these decisions and similar decisions from this Court have recognized the vast and comprehensive nature of ERISA and its implementing regulations and has characterized ERISA as one of the most, if not the most, preemptive of all of federal statutes.

The Executor appears to characterize the preemptive wall that must be broken as one created by the Department of Labor, apparently believing that having to overcome the preemptive effect of a regulation is easier than overcoming the preemptive effect of a statute.

Clearly the Executor is in error because characterization of the benefit, the duties imposed upon the plan administrator and the preemptive foundation of the decision of the Fifth Circuit are completely statutory in origin.

The dispute the Petitioner would have this Court review is purely a private dispute and no matter how the dispute is cast or recast it represents nothing more than an effort by the Executor to have this Court significantly alter the statutory framework of ERISA which this Court has consistently refused to do. Congress decided to allow a participant to make a beneficiary designation and to rely upon that designation as made. Executor's arguments, no matter how well meaning, should not be allowed to make such a sea change in ERISA.

CONCLUSION

For all the foregoing reasons Audrey Allison Hayes requests that the Petition For Writ of Certiorari filed by Sylvia Manning, Executor of the Estate of Houghton H. West, be denied.

Respectfully submitted,

MAURICE BRESENHAN, JR.
ZUKOWSKI & BRESENHAN, L.L.P.
Attorneys for Respondent
1177 West Loop South
Suite 1100
Houston, Texas 77027
(713) 965-9969